

Members

Sen. Joseph Harrison, Chairperson
Sen. R. Michael Young
Sen. Allie Craycraft
Sen. Larry Lutz
Rep. Larry Buell
Rep. Woody Burton
Rep. Thomas Kromkowski
Rep. R. Tiny Adams
Steve Meno
Kip White



PENSION MANAGEMENT OVERSIGHT COMMISSION

LSA Staff:

Peggy Piety, Attorney for the Commission
James Sperlik, Fiscal Analyst for the Commission

Authority: IC 2-5-12-1

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

MEETING MINUTES¹

Meeting Date: October 20, 2005
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Joseph Harrison, Chairperson; Sen. R. Michael Young;
Sen. Allie Craycraft; Sen. Larry Lutz; Rep. Larry Buell; Rep.
Thomas Kromkowski; Steve Meno.

Members Absent: Rep. Woody Burton; Rep. R. Tiny Adams; Kip White.

Senator Joseph Harrison, chair of the Pension Management Oversight Commission (the Commission), called the meeting to order at 10:05 a.m.

1. Discussion of Preliminary Draft 3204 concerning the Prosecuting Attorneys Retirement Fund

Staff explained that Preliminary Draft 3204 (Exhibit 1) would amend IC 33-39-7-15, IC 33-39-7-16, and IC 33-39-7-19 to reduce from ten to eight the years of service credit required for a participant to vest in the Prosecuting Attorneys Retirement Fund.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Senator Young spoke in support of the Preliminary Draft only because other public retirement funds have similar vesting periods. Steve Johnson representing the Prosecuting Attorneys Council also testified in support of the Preliminary Draft.

The Commission by a unanimous vote recommended Preliminary Draft 3204 for introduction in the 2006 session of the General Assembly.

2. Discussion of Preliminary Draft 3228 concerning Judges' Pensions

Staff explained that Preliminary Draft 3228 (Exhibit 2) would amend IC 33-38-8, the Judges' 1985 Benefit System, to allow a person serving as a full-time magistrate on July 1, 2006, and require a person who begins serving as a full-time magistrate after that date, to become a participant in the Judges' 1985 Benefit System. The draft would allow magistrates who are participants in the Judges' 1985 Benefit System to purchase, at full actuarial cost, service credit for prior service covered by an Indiana public employees' retirement fund. The draft would also establish a cost of living adjustment (COLA) to the monthly benefit payable to participants, survivors, and beneficiaries of the Judges' 1985 Benefit System using the same percentages and under the same conditions as the monthly benefit is increased for member of the Public Employees' Retirement Fund (PERF).

Representative Kromkowski spoke in support of the Preliminary Draft.

Senator Young asked about the magistrates' current pension and the increase in the unfunded liability that would result from this change. Staff explained that magistrates are currently members of PERF and that the combined total increase in the unfunded actuarial liability attributable to the magistrates and the cost of living adjustment would be approximately \$4.5 million. Doug Todd, actuary for the judges' pension funds, added that, because the fiscal impact statement is based on 2004 data, recent judicial salary increases will affect the amounts presented in the statement.

Judge John G. Baker of the Indiana Court of Appeals, representing the Indiana Judges Association, testified in support of the Preliminary Draft. In response to questions from Senator Young, Judge Baker outlined the differences between the PERF pension currently received by magistrates and the pension that magistrates would receive as members of the Judges' 1985 Benefit System.

The Commission, by a vote of 6-1, recommended Preliminary Draft 3228 for introduction in the 2006 session of the General Assembly.

3. Discussion of Preliminary Draft 3216 concerning the Director of the Indiana State Teachers' Retirement Fund (TRF)

Staff explained that Preliminary Draft 3216 (Exhibit 3) makes revisions requested by the Commission to Preliminary Draft 3125, which was discussed at the Commission's last meeting. Preliminary Draft 3216 requires that the director of TRF be a member of TRF or another person who is qualified by professional background and experience.

The Commission by a unanimous vote recommended Preliminary Draft 3216 for introduction in the 2006 session of the General Assembly.

4. Further Discussion of Possible Statutory Changes concerning Pension Bonding by Units of Local Government

Theodore J. Esping, Esquire, Municipal Bond Counsel, Baker & Daniels, made a presentation (Exhibit 4) describing three proposals that would make the use of pension bonds easier and more effective by local units of government that are having difficulties funding public safety pensions. While experts may dispute the extent, magnitude, and breadth of the problem, there is little dispute that funding pension benefits is a problem for local governments. Debt is a potential tool for managing this problem. Currently, pension debt is issued as general obligation bonds and competes with other municipal needs for the government's bonding capacity. The current debt limitation for local governments is one-third of the assessed value of the unit's property.

The first proposal is to eliminate the requirement that a local unit's assessed value be divided by three to determine the unit's debt limit for purposes of issuing pension bonds. This proposal is similar to the bonding authority the General Assembly provided in recent years to school corporations for the funding of local retirement or severance liabilities. This change would particularly benefit small and medium sized units.

The second proposal would allow units to issue pension bonds using a negotiated sale. Currently, general obligation bonds must be sold using competitive bids. Public sales don't always work very well for pension bonds, which are likely to be complex and "out of the ordinary" transactions. Other factors that may make a negotiated sale in the government's best interest include the size and term of the transaction.

The third proposal is to give cities and towns more flexibility in the investment of pension bond proceeds. Current law requires that a unit's investment have a maturity of not more than two years. This restriction may not make sense when a unit is holding pension bond proceeds for a long period. The proposal would allow units the investment flexibility authorized for PERF's investments only for the purpose of investing pension bond proceeds.

Senator Young asked about the legal basis for the requirement that: (1) a unit's assessed value be divided by three to determine the unit's debt limitation; and (2) a unit use a public bond sale. Mr. Esping responded that a unit's debt limit is determined by the Department of Local Government Finance and is based on statutory and administrative rule restrictions.

Mr. Esping reviewed the process by which a public bond sale is conducted. The objective of a public sale is that the unit get the lowest possible interest rate. However, sometimes a public process doesn't result in the lowest interest rate. This is especially true when the proposed sale is a complicated, large transaction that needs to be explained to potential bond buyers. In that case, if the unit could contract with a market professional, such as an underwriter, broker, or attorney, that person would, for a fee, market the unit's proposed bonds. Judgment and expertise determine whether a public or negotiated sale makes the most sense for a particular transaction. Attorney's fees vary by transaction, but they generally are lower for a public sale.

In response to a question from Senator Young, Mr. Esping confirmed that the proposals being discussed would benefit local units, not the state. He also confirmed that the state could reduce the pension relief provided to a local unit that issued pension bonds if these proposals were implemented.

Staff distributed and briefly explained some of the statutes that could be affected by the proposed changes, including IC 5-13-9, local unit deposit and investment powers, and IC 5-1-11, procedures for selling municipal bonds (Exhibit 5). Staff also distributed IC 21-2-21-1.8 that authorizes a school corporation to issue bonds to pay for local retirement or

severance liabilities. Senator Harrison announced that this issue was a matter for individual Commission members, because there wasn't enough time left in the interim for further consideration by the Commission.

5. Discussion of PD 3308 concerning Public Safety Pension Payments

Representative Buell discussed a matter that recently came to his attention that might assist local governments with the funding of pension liabilities. Staff distributed Preliminary Draft 3308 (Exhibit 6) showing a proposed amendment to IC 6-1.1-18.5-13. Representative Buell stated that while he had asked that the Preliminary Draft be prepared for discussion today, he was not seeking a Commission vote on the Preliminary Draft.

The proposal would allow the local government tax control board on an appeal by a civil taxing unit to recommend an increase in the unit's property tax levy for an ensuing calendar year equal to the amount by which the pension payments and contributions that the unit is required to make under IC 36-8 during the ensuing calendar year exceed the payments and contributions made by the unit during the calendar year that immediately precedes the ensuing calendar year. Current law allows the levy increase only if the pension payments and contributions have increased at least 10%. Representative Buell said that, if enacted, the proposal would likely result in property tax increases.

Matt Brase representing the Indiana Association of Cities and Towns (IACT) spoke in support of the proposal. He thanked the Commission for the pension relief that the General Assembly has made available to local governments in the past. In addition, IACT members are looking at what they can do for themselves to meet their pension obligations. The proposal presented by Representative Buell came from a pension workshop IACT sponsored very recently.

Representative Kromkowski asked Mr. Brase if IACT members had other ideas from the workshop, because he is concerned about increases in property taxes, especially on those with fixed incomes. Mr. Brase outlined several other possibilities discussed at the workshop, such as seeking funding increases from lottery proceeds. However, he acknowledged that there are many other requests for lottery proceeds in addition to pension relief. He indicated that IACT is working on this issue with the governor's office and others and expects within the next 30 days to have a proposal addressing the funding of local government by reducing the reliance on property taxes. IACT does not want to step back from the pension relief already achieved.

6. Adoption of the Commission's Final Report

The Commission by a unanimous vote adopted its final report. (The draft final report is Exhibit 7.)

Senator Harrison adjourned the meeting at 10:50 a.m.